

Initiative Measure No. 1334 filed January 16, 2014

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BRIEF DESCRIPTION:

Initiative Measure No. 1334

filed January 16, 2014

AN ACT Relating to increasing tax exemption transparency and accountability; amending RCW 43.06.400, 43.06.400, 43.88.030, 43.136.035, 43.136.045, 43.136.055, and 43.136.065; adding new sections to chapter 43.88 RCW; creating new sections; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) Hundreds of tax exemptions and special tax preferences have been granted to special interests by the legislature without requiring assessment of whether those exemptions and preferences would create jobs or result in increased economic activity which increases state revenues. These exemptions and preferences result in the entire tax system being less fair for people who do not have special exemptions and preferences, and increase the taxes on all other taxpayers in order to fund education and other state services.

(2) Tax expenditures reduce revenues collected from the tax base and provide preferential treatment to some at the expense of those not

getting a tax expenditure. Almost as much money as is collected in tax revenues is not collected and is given out as tax expenditures. While every expenditure of revenue must be authorized and appropriated in the state budget approved by the legislature, the massive amounts of funding for these tax preferences and exemptions continue without any reauthorization by the legislature in each budget. These exemptions and preferences are, therefore, tax expenditures, most of which continue without any legislative action year after year while the state seeks other funding to meet constitutional duties to fund education and other services and obligations.

(3) Off-budget spending in the form of tax expenditures has resulted in out of control state spending that is depleting the state of needed revenue to fund essential state services like education and health care. Tax expenditures as off-budget spending lack the accountability of other state spending programs because they have not been included in the state biennial budget process and are not subject to the same biennial scrutiny.

(4) This measure would create a tax expenditure budget as part of the biennial budget adopted by the legislature. This measure reforms the tax expenditure process by including tax expenditures in a tax expenditure budget in the biennial state budget process and requires they be reauthorized every two years as part of the budget process or they expire. This brings tax expenditures into the state budget process to protect the public's interest, make them more transparent and accountable, and help ensure they are producing results to meet the priorities of government as other state spending is required to do under the governor's proposed budget.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.88 RCW to read as follows:

(1) The omnibus operating appropriations act enacted by the legislature must include:

(a) A tax expenditure budget detailing all discretionary state tax expenditures together with an estimate of the state revenue impact associated with each discretionary state tax expenditure, the stated

purpose of the tax expenditure, and the effectiveness of the tax expenditure in meeting that purpose;

(b) A section stating the total estimated revenue impact from all discretionary state tax expenditures, total appropriations, and total state expenditures representing the sum of discretionary state tax expenditures and appropriations;

(c) A section stating the total state revenue impact from all nondiscretionary tax expenditures; and

(d) The purpose of the exemption or preference and criteria by which its continuation is evaluated based on whether it increases fairness, increases family wage jobs or other jobs, increases other state revenues greater than the amount foregone, or is necessary to prevent the loss of jobs via relocation to another jurisdiction.

(2) The sections described in subsection (1) of this section must be stated in part I of the omnibus operating appropriations act.

(3) For the purposes of this section, "discretionary state tax expenditure" means a tax preference, as defined in RCW 43.136.021, which impacts revenues appropriated in the omnibus operating appropriations act and that is not required by the state Constitution, United States Constitution, or federal law.

Sec. 3. RCW 43.06.400 and 2011 1st sp.s. c 20 s 201 are each amended to read as follows:

(1) (~~Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing must include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing must~~) Biennially, the department of revenue must prepare a tax expenditure budget detailing the amount of reduction for the current and next biennium in the

revenues of the state or the revenues of local government collected by the state as a result of tax expenditures. The tax expenditure budget must be updated as part of any supplemental budget process. The tax expenditure budget must include: An estimate of the revenue lost from each tax expenditure; the purpose of the tax expenditure; the persons, organizations, and parts of the population that benefit from the tax expenditure; whether or not the tax expenditure conflicts with another state program; a ranking of each tax expenditure as high, medium, or low in meeting the state's priorities of government; and the expiration date of the tax expenditure; and the purpose of the tax expenditure with criteria for its evaluation along with results of any review by the joint legislative audit and review committee and the citizen commission for performance measurement of tax expenditures pursuant to RCW 43.136.065 per section 2(1)(d) of this act. The tax expenditure budget must also include but not be limited to the following revenue sources:

- (a) Real and personal property tax exemptions under Title 84 RCW;
 - (b) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;
 - (c) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;
 - (d) Public utility tax exemptions and deductions under chapter 82.16 RCW;
 - (e) Food fish and shellfish tax exemptions under chapter 82.27 RCW;
 - (f) Leasehold excise tax exemptions under chapter 82.29A RCW;
 - (g) Motor vehicle and special fuel tax exemptions and refunds under chapters 82.36 and 82.38 RCW;
 - (h) Aircraft fuel tax exemptions under chapter 82.42 RCW;
 - (i) Motor vehicle excise tax exclusions under chapter 82.44 RCW;
- and
- (j) Insurance premiums tax exemptions under chapter 48.14 RCW.

(2) The department of revenue must prepare the ~~((listing))~~ tax expenditure budget required by this section with the assistance of any other agencies or departments as may be required.

~~(3) ((The department of revenue must present the listing to the ways and means committees of each house in public hearings.~~

~~——(4) Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house must hold public hearings and take appropriate action on the recommendations submitted by the governor.~~

~~——(5))~~ As used in this section, "tax ~~((exemption))~~ expenditure" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

~~((6) For purposes of the listing due in January 2012, the department of revenue does not have to prepare or update the listing with respect to any tax exemption that would not be likely to increase state revenue if the exemption was repealed or otherwise eliminated.))~~

(4) The department of revenue must submit the tax expenditure budget to the governor at the time biennial budget requests are due under RCW 43.88.030. The governor is requested to review the tax expenditure budget from the department of revenue and submit it as part of the biennial budget documents under RCW 43.88.030. The tax expenditure budget must categorize each tax expenditure according to the program and functions each expenditure supports in the biennial budget.

Sec. 4. RCW 43.06.400 and 2013 c 225 s 605 are each amended to read as follows:

~~(1) ((Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing must include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax~~

~~exemption conflicts with another state program. The listing must))~~
Biennially, the department of revenue must prepare a tax expenditure budget detailing the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax expenditures. The tax expenditure budget must be updated as part of any supplemental budget process. The tax expenditure budget must include: An estimate of the revenue lost from each tax expenditure; the purpose of the tax expenditure; the persons, organizations, and parts of the population that benefit from the tax expenditure; whether or not the tax expenditure conflicts with another state program; a ranking of each tax expenditure as high, medium, or low in meeting the state's priorities of government; and the expiration date of the tax expenditure; and the purpose of the tax expenditure with criteria for its evaluation along with results of any review by the joint legislative audit and review committee and the citizen commission for performance measurement of tax expenditures pursuant to RCW 43.136.065 per section 2(1)(d) of this act. The tax expenditure budget must also include but not be limited to the following revenue sources:

- (a) Real and personal property tax exemptions under Title 84 RCW;
 - (b) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;
 - (c) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;
 - (d) Public utility tax exemptions and deductions under chapter 82.16 RCW;
 - (e) Food fish and shellfish tax exemptions under chapter 82.27 RCW;
 - (f) Leasehold excise tax exemptions under chapter 82.29A RCW;
 - (g) Motor vehicle and special fuel tax exemptions and refunds under chapter 82.38 RCW;
 - (h) Aircraft fuel tax exemptions under chapter 82.42 RCW;
 - (i) Motor vehicle excise tax exclusions under chapter 82.44 RCW;
- and
- (j) Insurance premiums tax exemptions under chapter 48.14 RCW.

(2) The department of revenue must prepare the ~~((listing))~~ tax expenditure budget required by this section with the assistance of any other agencies or departments as may be required.

~~(3) ((The department of revenue must present the listing to the ways and means committees of each house in public hearings.~~

~~——(4) Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house must hold public hearings and take appropriate action on the recommendations submitted by the governor.~~

~~——(5))~~ As used in this section, "tax ~~((exemption))~~ expenditure" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

~~((6) For purposes of the listing due in January 2012, the department of revenue does not have to prepare or update the listing with respect to any tax exemption that would not be likely to increase state revenue if the exemption was repealed or otherwise eliminated.))~~

(4) The department of revenue must submit the tax expenditure budget to the governor at the time biennial budget requests are due under RCW 43.88.030. The governor is requested to review the tax expenditure budget from the department of revenue and submit it as part of the biennial budget documents under RCW 43.88.030. The tax expenditure budget must categorize each tax expenditure according to the program and functions each expenditure supports in the biennial budget.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.88 RCW to read as follows:

(1) The tax expenditure budget prepared by the department of revenue must include a detailed analysis of each expenditure and its ranking of high, medium, or low in meeting the priorities of government and whether each expenditure is meeting its stated goals as stated in RCW 43.136.055. The tax expenditure budget is not required

to address tax expenditures required under the state Constitution, United States Constitution, or federal law.

(2) The governor must coordinate the department of revenue's tax expenditure budget and the governor's review with the audit review process by the joint legislative audit and review committee and the citizen commission for performance measurement of tax expenditures and must identify each expenditure that will expire during the next biennium and make a recommendation as to whether the expenditure should be allowed to expire, continue, or continue with modification. The governor also may submit other recommendations to the legislature with respect to the repeal or modification of any tax expenditure. The fiscal committees of the house of representatives and the senate and the appropriate standing committee of the house of representatives and the senate must hold public hearings and must adopt a tax expenditure budget as part of the omnibus appropriations act. Any tax expenditure not included in the tax expenditure budget in the adopted omnibus appropriations act expires at the end of the calendar year in which the budget is adopted.

(3) For the purposes of this section, "tax expenditure" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

(4) Each biennium the tax expenditure budget must be included in the omnibus operating appropriations act enacted by the legislature.

(a) Tax expenditures in the tax expenditure budget must be treated as any other state expenditure and must be reauthorized with each biennial budget. Tax expenditures that have an expiration provision must be included in the tax expenditure budget with the expiration date stated. Tax expenditures can be expired by the legislature prior to the stated expiration date in the same manner as the legislature can terminate any expenditure for other state funding.

(b) No new or existing tax expenditure may be approved or reauthorized by the legislature for more than ten years.

(c) Any new tax expenditures must be added to the tax expenditure budget and are subject to the same audit and review procedures and for meeting the state's priorities of government as existing tax

expenditures are required to meet. New tax expenditures enacted as part of the tax expenditure budget in the omnibus appropriations act but which were not reviewed under all provisions of RCW 43.136.045 or 43.136.055 prior to enactment must be prioritized for review.

(d) The legislature may expire a tax expenditure earlier than its authorized term by either:

(i) A majority vote as provided under Article II, section 22 of the state Constitution; or

(ii) As part of the budget process in the same manner as any other expenditure is approved or denied in the omnibus appropriations act by a majority vote of the members of the house of representatives and the senate.

Sec. 6. RCW 43.88.030 and 2006 c 334 s 43 are each amended to read as follows:

(1) (a) The director of financial management (~~((shall))~~) must provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management.

(b) The budget document or documents (~~((shall))~~) must consist of the governor's budget message which (~~((shall))~~) must be explanatory of the budget and (~~((shall))~~) must contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and (~~((shall))~~) must describe in connection therewith the important features of the budget.

(i) The biennial budget document or documents (~~((shall))~~) must also describe performance indicators that demonstrate measurable progress towards priority results.

(ii) The message (~~((shall))~~) must set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and (~~((shall))~~) must explain any major changes in financial policy. Attached to the budget message (~~((shall))~~) must be such supporting schedules, exhibits and other explanatory material in

respect to both current operations and capital improvements as the governor (~~((shall))~~) deems to be useful to the legislature.

(iii) The budget document or documents (~~((shall))~~) must set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast. Revenues (~~((shall))~~) must be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document.

(c) The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

(d) The budget document or documents (~~((shall))~~) must also contain:

~~((a))~~ (i) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

~~((b))~~ (ii) The tax expenditure budget prepared under RCW 43.06.400;

(iii) The undesignated fund balance or deficit, by fund;

~~((c))~~ (iv) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

~~((d))~~ (v) Such additional information dealing with revenues and expenditures as the governor ~~((shall))~~ deems pertinent and useful to the legislature;

~~((e))~~ (vi) Tabulations showing expenditures classified by fund, function, and agency;

~~((f))~~ (vii) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

~~((g))~~ (viii) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

~~((h))~~ (ix) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

~~((2))~~ (e) The budget document or documents ~~((shall))~~ must include detailed estimates of all anticipated revenues applicable to proposed operating ~~((or))~~ , capital, and tax expenditures and ~~((shall))~~ must also include all proposed operating ~~((or))~~ , capital, and tax expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves ~~((shall))~~ must equal or exceed the total of proposed applicable expenditures.

(f) The budget document or documents ~~((shall))~~ must further include:

~~((a))~~ (i) Interest, amortization and redemption charges on the state debt;

~~((b))~~ (ii) Payments of all reliefs, judgments, and claims;

~~((c))~~ (iii) Other statutory expenditures;

~~((d))~~ (iv) Expenditures incident to the operation for each agency;

~~((e))~~ (v) Revenues derived from agency operations;

~~((f))~~ (vi) Expenditures and revenues ~~((shall))~~ must be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

~~((4))~~ (vii) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

~~((4))~~ (viii) Common school expenditures on a fiscal-year basis;

~~((4))~~ (ix) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

~~((4))~~ (x) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

~~((3))~~ (2) The governor's operating budget document or documents ~~((shall))~~, including the tax expenditure budget, must reflect the statewide priorities as required by RCW 43.88.090.

~~((4))~~ (3) The governor's operating budget document or documents ~~((shall))~~, including the tax expenditure budget, must identify activities that are not addressing the statewide priorities.

~~((5))~~ (4)(a) A separate capital budget document or schedule ~~((shall))~~ must be submitted that will contain the following:

~~((a))~~ (i) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

~~((b))~~ (ii) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program ~~((shall))~~ must reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

~~((c))~~ (iii) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

~~((d))~~ (iv) A strategic plan for reducing backlogs of maintenance and repair projects. The plan ~~((shall))~~ must include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

~~((e))~~ (v) A statement of the reason or purpose for a project;

~~((f))~~ (vi) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

~~((g))~~ (vii) A statement about the proposed site, size, and estimated life of the project, if applicable;

~~((h))~~ (viii) Estimated total project cost;

~~((i))~~ (ix) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs ~~((shall))~~ must be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

~~((j))~~ (x) Estimated total project cost for each phase of the project as defined by the office of financial management;

~~((k))~~ (xi) Estimated ensuing biennium costs;

~~((l))~~ (xii) Estimated costs beyond the ensuing biennium;

~~((m))~~ (xiii) Estimated construction start and completion dates;

~~((n))~~ (xiv) Source and type of funds proposed;

~~((o))~~ (xv) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

~~((p))~~ (xvi) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, ~~((shall))~~ must identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and

recreation land acquisitions (~~((shall))~~) must include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document (~~((shall))~~) must identify the source of funds from which the operation and maintenance costs are proposed to be funded;

~~((4))~~ (xvii) Such other information bearing upon capital projects as the governor deems to be useful;

~~((4))~~ (xviii) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

~~((5))~~ (xix) Such other information as the legislature may direct by law or concurrent resolution.

(b) For purposes of this subsection ~~((4))~~ (4), the term "capital project" (~~((shall))~~) must be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

~~((6))~~ (5) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance, and personnel (~~((shall))~~) may be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report (~~((which))~~) that was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence (~~((shall))~~) must consist of:

(a) A favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session; or

(b) A favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 7. RCW 43.136.035 and 2006 c 197 s 3 are each amended to read as follows:

(1) The citizen commission for performance measurement of tax (~~(preferences)~~) expenditures is created.

(2) The commission has seven members as follows:

(a) One member is the state auditor, who is a nonvoting member;

(b) One member is the chair of the joint legislative audit and review committee, who is a nonvoting member;

(c) The chair of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives shall each appoint a member. None of these appointees may be members of the legislature; and

(d) The governor shall select the seventh member.

(3) Persons appointed by the caucus chairs should be individuals who represent a balance of perspectives and constituencies, and have a basic understanding of state tax policy, government operations, and public services. These appointees should have knowledge and expertise in performance management, fiscal analysis, strategic planning, economic development, performance assessments, or closely related fields.

(4) The commission shall elect a chair from among its voting or nonvoting members. Decisions of the commission must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the vast majority of the commission favors taking a particular action. If the commission determines that sufficient consensus cannot be reached, a vote must be taken. The commission must allow a minority report to be included with a decision of the commission, if requested by a member of the commission.

(5) Members serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial terms, the members appointed by the chairs of senate caucuses shall serve four-year terms, the members appointed by the chairs of house of representatives caucuses shall serve three-year terms, and the member appointed by the governor shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The joint legislative audit and review committee shall provide clerical, technical, and management personnel to the commission to serve as the commission's staff. The department of revenue shall provide necessary support and information to the joint legislative audit and review committee.

(7) The commission shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the commission. The members of the commission shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 8. RCW 43.136.045 and 2011 c 335 s 2 are each amended to read as follows:

(1) The citizen commission for performance measurement of tax ~~((preferences))~~ expenditures must develop a schedule to accomplish an orderly review of tax ~~((preferences))~~ expenditures at least once every ten years. In determining the schedule, the commission must consider the order the tax ~~((preferences))~~ expenditures were enacted into law, in addition to other factors including but not limited to grouping ~~((preferences))~~ expenditures for review by type of industry, economic sector, or policy area. The commission ~~((may elect to include, anywhere in the schedule, a tax preference that has a statutory expiration date. The commission must omit from the schedule tax preferences that are required by constitutional law, sales and use tax exemptions for machinery and equipment for manufacturing, research and development, or testing, the small business credit for the business and occupation tax, sales and use tax exemptions for food and prescription drugs, property tax relief for retired persons, and property tax valuations based on current use, and may omit any tax preference that the commission determines is a critical part of the structure of the tax system. As an alternative to the process under RCW 43.136.055, the commission may recommend to the joint legislative audit and review committee an expedited review process for any tax preference))~~ must include, in a timely manner, in the schedule, a tax expenditure that has a statutory expiration date. The commission must

omit from the schedule tax expenditures that are required by constitutional law. As an alternative to the process under RCW 43.136.055, the commission, as well as the governor or the state legislature, may recommend to the joint legislative audit and review committee an expedited review process for any tax expenditure or group of expenditures.

(2) The commission must revise the schedule as needed each year, taking into account newly enacted or terminated tax ~~((preferences))~~ expenditures. The commission must deliver the schedule to the joint legislative audit and review committee by September 1st of each year.

(3) The commission must provide a process for effective citizen input during its deliberations and must allow comments to be submitted and posted online.

Sec. 9. RCW 43.136.055 and 2011 c 335 s 3 are each amended to read as follows:

(1) The joint legislative audit and review committee must review tax ~~((preferences))~~ expenditures according to the schedule developed under RCW 43.136.045. The committee must consider, but not be limited to, the following factors in the review as relevant to each particular tax ~~((preference))~~ expenditure:

~~(a) The classes ~~((of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;~~~~

~~—— (b) Public policy objectives that might provide a justification for the tax preference, including but not limited to the legislative history, any legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;~~

~~—— (c) Evidence that the existence of the tax preference has contributed to the achievement of any of the public policy objectives;~~

~~—— (d) The extent to which continuation of the tax preference might contribute to any of the public policy objectives;~~

~~—— (e) The extent to which the tax preference may provide unintended~~

~~benefits to an individual, organization, or industry other than those the legislature intended;~~

~~—— (f) The extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;~~

~~—— (g) The feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled;~~

~~—— (h) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued. For the purposes of this subsection, "fiscal impact" includes an analysis of the general effects of the tax preference on the overall state economy, including, but not limited to, the effects of the tax preference on the consumption and expenditures of persons and businesses within the state;~~

~~—— (i) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes;~~

~~—— (j) The economic impact of the tax preference compared to the economic impact of government activities funded by the tax for which the tax preference is taken at the same level of expenditure as the tax preference. For purposes of this subsection the economic impact shall be determined using the Washington input-output model as published by the office of financial management;~~

~~—— (k) Consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.~~

~~—— (2) For each tax preference, the committee must provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of a tax preference))~~
and number of individuals, organizations, and industries whose state tax liabilities are directly affected by the tax expenditure;

(b) Public policy objectives that provide the justification for

the tax expenditure budget, including but not limited to the legislative history, legislative intent, priorities of government, and the extent to which the tax expenditure encourages business growth, relocation into this state, promotes growth or retention of high wage jobs, and helps stabilize communities and local economies;

(c) Evidence that the existence of the tax expenditure has contributed to the achievement of any of the public policy objectives of the state and its priorities of government;

(d) The extent to which continuation of the tax expenditure would contribute to any of the public policy objectives and priorities of government;

(e) The extent to which the tax expenditure may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(f) The extent to which terminating the tax expenditure may have negative effects on the category of taxpayers that currently benefit from the tax expenditure, the extent to which there may be negative or positive effects on employment, the economy, the state budget, and other taxpayers;

(g) The feasibility of modifying or terminating the tax expenditure to provide for adjustment or recapture of the tax benefits of the tax expenditure if the economic benefits, jobs, or other objectives are not fulfilled;

(h) Fiscal impacts of the tax expenditure, including past impacts and expected future impacts if it is continued. For the purposes of this subsection, "fiscal impact" includes an analysis of the general effects of the tax expenditure on the overall state economy, jobs, the state budget, and other taxpayers including, but not limited to, the effects of the tax expenditure on the consumption and expenditures of persons and businesses within the state;

(i) The extent to which termination of the tax expenditure would affect the distribution of liability for payment of state taxes;

(j) The economic impact of the tax expenditure compared to the economic impact of government activities that could be funded by the tax for which the tax expenditure is taken, comparing the projected

results at the same level of expenditure as the tax expenditure. For purposes of this subsection, the economic impact must be determined using the Washington input-output model as published by the office of financial management and/or other economic models accepted by the office of financial management that may provide more accurate information;

(k) The extent to which the tax expenditure promotes a sustainable nonpolluting economy and contributes to protecting the environment and our quality of life;

(l) A ranking of high, medium, or low priority as to the tax expenditure meeting the most recent "priorities of government" as developed by the office of financial management;

(m) The extent to which the tax expenditure contributes to tax fairness and a reduction in the regressive impacts of the current tax system in Washington state;

(n) Opportunities and feasibility to use direct budget expenditures instead of tax expenditures to accomplish economic goals more efficiently, effectively, and within a set time frame;

(o) Whether the tax expenditure is necessary to accomplish its stated goal or if finances, funds, other resources, or other opportunities are available to the recipient to accomplish the same result.

(2) For each tax expenditure, the committee must provide a recommendation as to whether the tax expenditure should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee must recommend accountability standards for the future review of a tax expenditure.

(3) (a) Review of tax expenditures by the committee must include, but is not limited to, whether the expenditure has a purpose identified pursuant to RCW 43.06.400 in the tax expenditure budget.

(i) If the purpose is to generate additional state and/or local revenue pursuant to the tax expenditure budget by generating additional gross sales subject to business and occupation tax, retail sales tax, or other taxes exceeding the amount of estimated revenue lost from enactment of the tax expenditure, the review must include

how much additional revenue has been generated in comparison to the reduction in revenue from the tax expenditure.

(ii) If the purpose is to create or preserve jobs pursuant to the tax expenditure budget the committee must include the following in the tax expenditure review:

(A) A comparison of the projected total earnings per job, for each job created or preserved, to the estimated amount of lost revenue from the tax expenditure;

(B) Whether the jobs are family wage jobs, defined as jobs which provide health and other benefits, and earnings of at least fifty percent of the median wage for the local economic region of the state where the jobs were created or preserved; and

(C) Whether the industry sector or business would likely move such jobs to another state or country, taking into consideration factors including, but not limited to, comparative tax structures of other jurisdictions and access to an educated and trained workforce.

(b) If the review of a tax expenditure pursuant to (a)(ii) of this subsection does not demonstrate that the net earnings of the jobs created or preserved in Washington, attributed to the availability of the tax expenditure, or exceed the amount of lost revenue from the tax expenditure, the committee must recommend that the tax expenditure be terminated.

Sec. 10. RCW 43.136.065 and 2006 c 197 s 6 are each amended to read as follows:

~~(1) The joint legislative audit and review committee ((shall report its findings and recommendations for scheduled tax preferences to the citizen commission for performance measurement of tax preferences by August 30th of each year. The commission may review and comment on the report of the committee. The committee may revise its report based on the comments of the commission. The committee shall prepare a final report that includes the comments of the commission and submit the final report to the finance committee of the house of representatives and the ways and means committee of the senate by December 30th.~~

~~— (2) The joint legislative audit and review committee shall submit a special report reviewing all tax preferences that have statutory expiration dates between June 30, 2005, and January 1, 2007. For the special report, the committee shall complete a review under RCW 43.136.055, and obtain comments of the citizen commission for performance measurement of tax preferences under subsection (1) of this section, to the extent possible. The committee shall submit the special report to the finance committee of the house of representatives and the ways and means committee of the senate by January 12, 2006.~~

~~— (3)) must report its findings and recommendations for scheduled tax expenditures to the citizen commission for performance measurement of tax expenditures by June 30th of each year. The commission must review and comment on the report of the committee. The committee may revise its report based on the comments of the commission. The committee must prepare a final report that includes the comments of the commission and submit the final report to the finance committee of the house of representatives and the ways and means committee of the senate, the department of revenue, and the governor's office by September 30th. The governor and the department of revenue must consider and incorporate the findings of the final report in their preparation of their tax expenditure budget required under section 2 of this act.~~

~~— (2) Following receipt of a report under this section, the finance committee of the house of representatives and the ways and means committee of the senate (~~shall~~) must jointly hold a public hearing to consider the final report and any related data.~~

NEW SECTION. **Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 12.** This act may be known and cited as the tax exemption transparency and accountability act.

NEW SECTION. **Sec. 13.** Section 3 of this act expires July 1,
2015.

NEW SECTION. **Sec. 14.** Section 4 of this act takes effect July 1,
2015.